



1634
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DOCKET NO.: 9558-003-27

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Re: Serial No.: 09/865,579
Applicant(s): TOSHIKI TAYA, ET AL.
Filing Date: MAY 29, 2001
For: OLIGONUCLEOTIDES AND METHOD FOR DETECTION OF MECA
GENE OF METHICILLIN-RESISTANT *STAPHYLOCOCCUS AUREUS*
Group Art Unit: 1634
Examiner: EINSMANN, J.

SIR:


Attached hereto for filing are the following papers:

FEE TRANSMITTAL
REQUEST FOR EXTENSION OF TIME (1 MONTH)
RESPONSE TO RESTRICTION REQUIREMENT

Our check in the amount of \$ 110.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary extension of time to make the filing of the attached documents timely, please charge or credit the difference to Deposit Account No. 50-1442. Further, if these papers are not considered timely filed, then a request is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

PIPER RUDNICK LLP



Steven B. Kelber
Attorney of Record
Registration No.: 30,073

Perry E. Van Over
Registration No.: 42,197

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FEE TRANSMITTAL

Docket No.		9558-003-27	
Serial No.		09/865,579	
Filing Date		MAY 29, 2001	
Inventor(s)		TOSHIKI TAYA, ET AL.	
Group Art Unit		1634	
TOTAL AMOUNT OF PAYMENT		\$110.00	
Examiner		EINSMANN, J.	

1. <input type="checkbox"/> Applicant claims small entity status. <input checked="" type="checkbox"/> Charge any <u>UNDERPAYMENT</u> or credit any <u>OVERPAYMENT</u> in the indicated fees to Deposit Account No. 50-1442. <input type="checkbox"/> Charge the indicated fees to Deposit Account No. 50-1442.										FEE CALCULATION (continued)																			
2. <input checked="" type="checkbox"/> Check enclosed.										3. ADDITIONAL FEES																			
FEE CALCULATION					Large Entity					Small Entity					Fee Description														
1. BASIC FILING FEE					Fee Code					Fee (\$)					Fee Paid														
Large Entity					Small Entity					Fee Description																			
Fee Code					Fee (\$)					Fee Code					Fee (\$)														
1001					740					2001					370														
Utility filing fee										1051					130														
1002					330					2002					165														
Design filing fee										1052					50														
1003					510					2003					255														
Plant filing fee										1053					130														
1004					740					2004					370														
Reissue filing fee										1812					2520														
1005					160					2005					80														
Provisional filing fee										1251					110														
SUBTOTAL (1)					\$0.00					1252					400														
2. EXTRA CLAIM FEES					1401					320					2401					160									
tot. claims					-					20*					=					0									
ind. claims					-					3*					=					0									
Multiple Dependent Claims					\$280					=																			
Large Entity					Small Entity					Fee Description					1402					320									
Fee Code					Fee (\$)					Fee Code					Fee (\$)					2403					140				
1202					18					2202					9					1806					180				
Claims in excess of 20										8021					40					8021					40				
1201					84					2201					42					1801					740				
Independent claims in excess of 3										1802					900					1802					900				
1203					280					2203					140					OTHER (indicate below):									
Multiple dependent claim, if not paid																													
1204					84					2204					42														
*Reissue independent claims over original patent																													
1205					18					2205					9														
*Reissue claims in excess of 20 and over original patent																													
SUBTOTAL (2)					\$0.00																								
* or number previously paid, if greater; For Reissues, see above																													
SUBTOTAL (3)																													

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Name	Steven B. Kelber	Registration No.	30,073
Signature		Date	Nov 26, 2002
Name	Perry E. Van Over	Registration No.	42,197
		Telephone	202-861-3900



DOCKET NO. 9558-003-27

#12
C.D.
12/4/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: TOSHIKI TAYA, ET AL.

ART UNIT: 1634

SERIAL NO.: 09/865,579

EXAMINER: EINSMANN, J.

FILING DATE: MAY 29, 2001

FOR: OLIGONUCLEOTIDES AND METHOD FOR DETECTION OF MECA
GENE OF METHICILLIN-RESISTANT *STAPHYLOCOCCUS AUREUS*

RESPONSE TO RESTRICTION REQUIREMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the Restriction Requirement dated September 26, 2002, Applicants elect, albeit with traverse, Group II, Claims 5-8 for further prosecution at this time. A Request for Extension of Time for one month is attached hereto and incorporated herein by reference, thereby extending the date for response from October 26, 2002 to November 26, 2002.

REMARKS

The Examiner has required restriction in the above-identified application as follows:

Group I: Claims 1-4, drawn to oligonucleotides within the *mecA* gene, classified in class 536, subclass 24:32.

Group II: Claims 5-8, drawn to detection methods employing an RNA amplification process, classified in class 435, subclass 91.2.

Applicants respectfully traverse the restriction requirement on the basis that there is no undue burden on the Examiner. Furthermore, Applicants respectfully request rejoinder of Claims 1-4 and Claims 5-8.

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The basis for Applicants' traversal is that there is no undue burden on the Examiner. Any search conducted by the Examiner for the process defined by Claims 5-8 of the present invention will necessarily encompass a search for the oligonucleotide of Claims 1-4 since the process of Claims 5-8 involves the oligonucleotide of Claims 1-4. The Examiner's assertion that the product of Group I can be used in other methods is conjecture without a recitation providing foundation therefor. Accordingly, Applicants respectfully request rejoinder of Claims 1-4 and Claims 5-8.

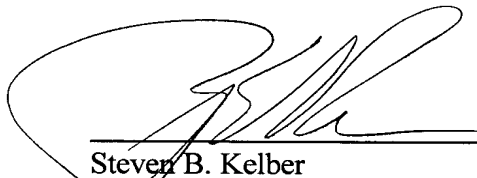
In view of the foregoing, Applicants further request the consideration of the requirement for restriction and continued prosecution on the merits of all claims in this application.

However, in the event that the Examiner chooses not to rejoin and consider Claims 1-4 of Group I and Claims 5-8 of Group II, Applicants elect the claims of Group II, Claims 5-8, with traverse, for examination on the merits. Applicants further reserve the right to file one or more divisional applications to the non-elected subject matter, if they so wish.

Applicants submit that the application is now in condition for examination on the merits. Early notification of such action is earnestly solicited.

Respectfully submitted,

PIPER RUDNICK LLP



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